

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

FILED

NOV 01 2017

Clerk, U.S. District Court
District Of Montana
Missoula

JEAN PAUL LAUREN,

Plaintiff,

vs.

MONTANA STATE UNIVERSITY,
JOHN PAXTON, and BRENDA YORK,

Defendants.

CV 17-62-BU-BMM-JCL

ORDER

By order entered September 19, 2017, the Court granted Plaintiff Jean Paul Lauren leave to proceed in forma pauperis under 28 U.S.C. § 1915(a). The Court reviewed his pleading pursuant to section 1915(e) and found that his allegations, liberally construed, at least state a claim upon which relief could be granted against the Defendants he names in this action. Therefore, the Court ordered Lauren to provide an address for service of process on each Defendant. He has since filed the addresses with the Court.

Because Lauren is proceeding in forma pauperis, the Court is required to “issue and serve all process” in his case. 28 U.S.C. § 1915(d). He is entitled to have his complaint and summons served by the United States Marshal, or otherwise served by the Court. Fed. R. Civ. P. 4(c)(3). Accordingly, the Court

will serve Lauren's complaint on Defendants, and the Court will request that they waive formal service of process.

Based on the foregoing, the Court enters the following:

ORDER

1. Pursuant to 28 U.S.C. § 1915(d) and Fed. R. Civ. P. 4(d), the Court requests that each Defendant waive service of summons by executing the attached Waiver of Service of Summons.

The Waiver must be returned to the Court within thirty (30) days of the entry date reflected on the Notice of Electronic Filing for this Order. If Defendants return the forms for Waiver of Service of Summons, an answer or appropriate motion will be due from each Defendant within 60 days after this request for waiver was sent as reflected on the Notice of Electronic Filing for this Order, pursuant to Fed. R. Civ. P. 4(d)(3) and 12(a)(1)(A)(ii).

2. The Clerk of Court shall forward the documents listed below to each Defendant as follows:

Montana State University
c/o Office of the Attorney General
Justice Building, Third Floor
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

John Paxton
Gianforte School of Computing
357 Barnard Hall
Montana State University
Bozeman, MT 59717

Brenda York
20 Robins Nest Lane
Belgrade, Montana 59714-9186

- * this Order;
- * the Order entered September 19, 2017;
- * a Notice of Lawsuit & Request to Waive Service of Summons;
- * a Waiver of Service of Summons; and
- * Lauren's Complaint filed August 24, 2017.

Counsel for each Defendant must file a "Notice of Appearance" as a separate document at the time an Answer or Rule 12 motion is filed. *See* D. Mont. L.R. 12.2.

3. Any party's request that the Court grant relief, make a ruling, or take an action of any kind must be made in the form of a motion, with an appropriate caption designating the name of the motion, served on all parties to the litigation, pursuant to Federal Rules of Civil Procedure 7, 10, and 11. If a party wishes to give the Court information, such information must be presented in the form of a notice. The Court will not consider requests made or information presented in letter form.

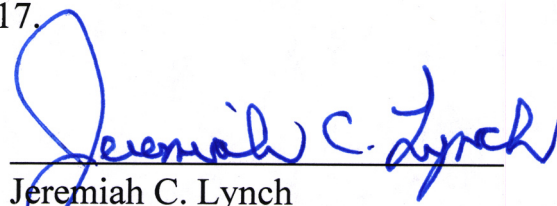
4. Pursuant to Fed. R. Civ. P. 5(a), all documents presented for the Court's consideration must be simultaneously served in the manner required by Fed. R. Civ. P. 5(b). Each party shall comply with the Certificate of Service requirements set forth in Fed. R. Civ. P. 5(d). The certificate of service must state the date on which the document was deposited in the mail and the name and address of the person to whom the document was sent. The sender must sign the certificate of service.

5. Lauren shall not make any motion for default until at least seventy (70) days after the date of this Order.

6. Lauren shall notify the Court immediately if his address changes. Failure to do so may be cause for dismissal of this case without further notice.

7. Lauren is advised that his failure to comply with the Court's orders may result in a recommendation that this case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). He is advised that the Court may dismiss this case under Rule 41(b) on its own motion without awaiting a defense motion. *See, e.g., Link v. Wabash Railroad Co.*, 370 U.S. 626, 633 (1962); *Hells Canyon Preservation Council v. United States Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005).

DATED this 1st day of November, 2017.


Jeremiah C. Lynch
United States Magistrate Judge

NOTICE OF LAWSUIT AND REQUEST FOR
WAIVER OF SERVICE OF SUMMONS

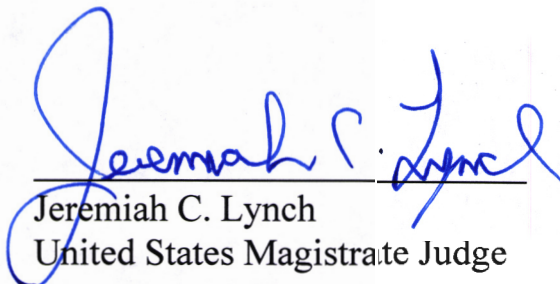
TO: Montana State University
c/o Office of the Attorney General
Justice Building, Third Floor
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

A lawsuit has been commenced by a pro se plaintiff against the Montana State University, and two other individuals. A copy of the Complaint plaintiff filed is attached to this notice. It has been filed in the United States District Court for the District of Montana, Civil Action No. CV 17-62-BU-BMM-JCL. The Court has completed its pre-screening and concludes that Defendants must file responsive pleadings. *See* 28 U.S.C. § 1915(e)(2).

This is not a formal summons or notification from the Court, but rather a request that an authorized agent on behalf of each Defendant sign and return the enclosed waiver of service in order to save the cost of service by the U.S. Marshals Service. The cost of service will be avoided if each Defendant returns the signed Waiver of Service of Summons within 30 days after the entry date of this Notice as reflected on the Notice of Electronic Filing of the Order which was served with this Notice.

If you comply with this request and return the waiver to the Court, it will be filed with the Court and no summons will be served. The action will then proceed as if it had been served on the date the waiver is filed, except that you must file an answer or appropriate motion before 60 days from the date the Order directing this Notice of Lawsuit and Request for Waiver of Service of Summons to be sent was entered as indicated on the Notice of Electronic Filing.

If you do not wish to waive service, you must so indicate on the Waiver of Service of Summons form. The Court will, in turn, order the U.S. Marshals Service to serve the complaint on you and the Court may impose the full costs of such service.


Jeremiah C. Lynch
United States Magistrate Judge

NOTICE OF LAWSUIT AND REQUEST FOR
WAIVER OF SERVICE OF SUMMONS

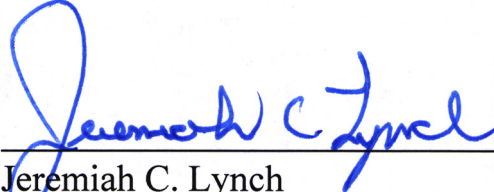
TO: John Paxton
Gianforte School of Computing
357 Barnard Hall
Montana State University
Bozeman, MT 59717

A lawsuit has been commenced by a pro se plaintiff against you, and two other individuals. A copy of the Complaint plaintiff filed is attached to this notice. It has been filed in the United States District Court for the District of Montana, Civil Action No. CV 17-62-BU-BMM-JCL. The Court has completed its pre-screening and concludes that Defendants must file responsive pleadings. *See* 28 U.S.C. § 1915(e)(2).

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Jeremiah C. Lynch
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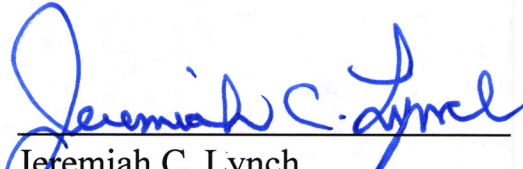
TO: Brenda York
20 Robins Nest Lane
Belgrade, Montana 59714-9186

A lawsuit has been commenced by a pro se plaintiff against you, and two other individuals. A copy of the Complaint plaintiff filed is attached to this notice. It has been filed in the United States District Court for the District of Montana, Civil Action No. CV 17-62-BU-BMM-JCL. The Court has completed its pre-screening and concludes that Defendants must file responsive pleadings. *See* 28 U.S.C. § 1915(e)(2).

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Jeremiah C. Lynch
United States Magistrate Judge

WAIVER OF SERVICE OF SUMMONS

TO: The U.S. District Court for the District of Montana

The following Defendant acknowledges receipt of your request that it waive service of summons in the following action: *Jean Paul Lauren v. Montana State University, John Paxton, and Brenda York*, Civil Action No. CV 17-62-BU-BMM-JCL filed in the United States District Court for the District of Montana. Defendant has also received a copy of the Complaint filed in this action. I am authorized by Defendant to agree to save the cost of service of a summons and an additional copy of the Complaint in this action by not requiring that the following Defendant be served with judicial process in the case provided by Fed. R. Civ. P. 4:

_____; _____; _____;
_____; _____; _____;

The above-named Defendant retains all defenses or objections to the lawsuits or to the jurisdiction or venue of the Court except for objections based on a defect in the summons or in the service of the summons. I understand that judgments may be entered against the above-named Defendant if an answer or motion under Fed. R. Civ. P. 12 is not served within 60 days after the date the Order directing the Notice of Lawsuit and Request for Waiver of Service of Summons to be sent was entered as indicated on the Notice of Electronic Filing.

I decline to waive service on behalf of the following Defendant:

_____; _____; _____;
_____; _____; _____;
_____; _____; _____;

DATE

SIGNATURE

PRINTED/TYPED NAME

ADDRESS

WAIVER OF SERVICE OF SUMMONS

TO: The U.S. District Court for the District of Montana

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I decline to waive service on behalf of the following Defendant:

_____; _____; _____;
_____; _____; _____;
_____; _____; _____;

DATE

SIGNATURE

PRINTED/TYPED NAME

ADDRESS

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I decline to waive service on behalf of the following Defendant:

_____; _____; _____;
_____; _____; _____;
_____; _____; _____;

DATE

SIGNATURE

PRINTED/TYPED NAME

ADDRESS